

COLLECTIVE BARGAINING REPORT 2018

Large pay rises and more employee choice on working hours

by Thorsten Schulten and the WSI-Tarifarchiv

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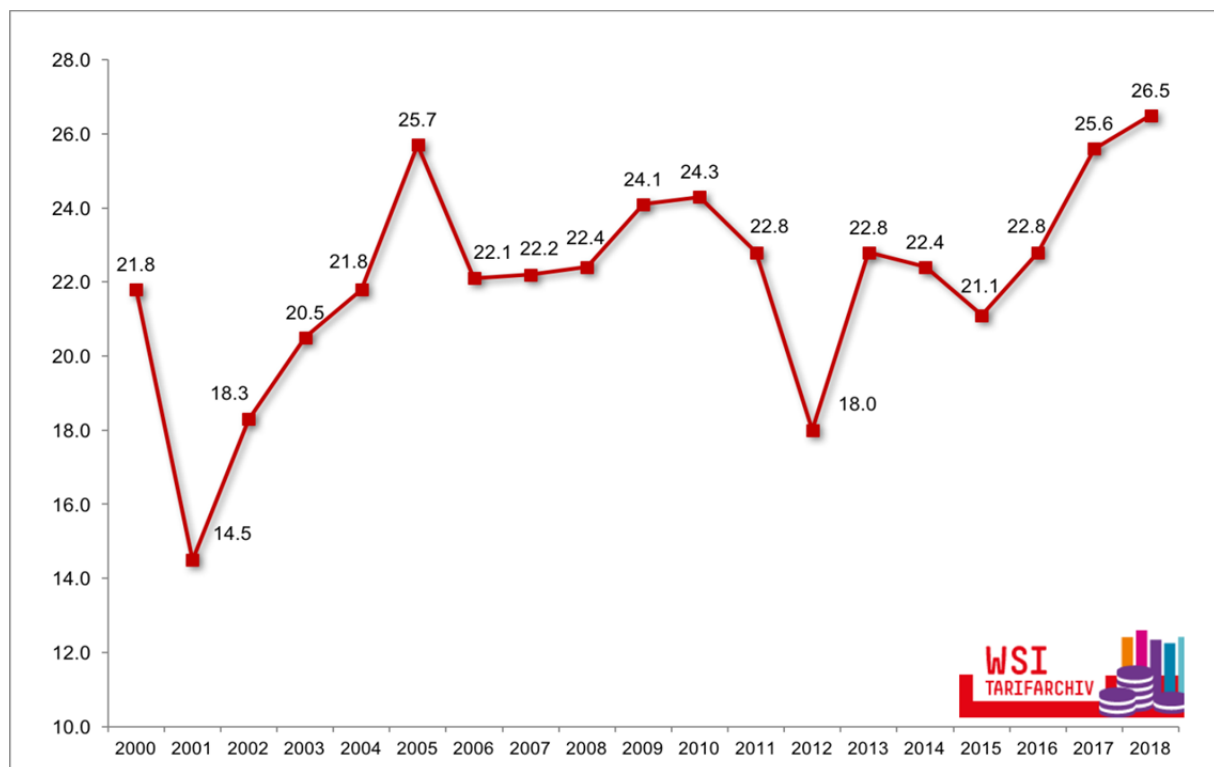
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1. The 2018 bargaining round: overview

The 2018 bargaining round saw settlements for some 11 million employees concluded by trade unions affiliated to the German Confederation of Trade Unions (*Deutscher Gewerkschaftsbund – DGB*). In addition, pay increases for a further 8.6 million employees agreed in 2017 or earlier took effect in 2018. On average, new agreements concluded in 2018 were for a record duration of 26.5 months (see *Figure 1*), with barely any pay agreements concluded for less than two years. One notable, and customary, exception to this was the chemical industry, the only major branch with a shorter agreement, where a deal of just 15 months was agreed (Table 1). In contrast, long-term agreements of 30 months were concluded in the public sector (for Federal and local government) and in the private transport sector for North Rhine-Westphalia. Overall, the duration of settlements concluded in 2018 continued the trend towards increasingly longer term deals seen in previous years.

Figure 1: Average duration of pay agreements, 2000-2018

In months



Source: WSI-Tarifarchiv 2019

1.1 Trade union claims for 2018

The most common pay claim submitted in the 2018 bargaining round was for an increase in agreed wages and salaries of 6.0 per cent (*Table 1*). In the few branches in which claims were less than this, such as the energy sector in North Rhine-Westphalia and confectionery industry in East Germany, this was no more than a percentage point or half a percentage point. One of the highest claims submitted was at the national railway company Deutsche

Bahn AG, where the package sought by the rail and transport trade union EVG (*Eisenbahn- und Verkehrsgewerkschaft*) was worth some 7.5 per cent overall. A generally favourable economic situation and falling unemployment led to claims markedly above those submitted in previous years (Schulten and WSI-Tarifarchiv 2018).

In some branches, pay claims also included a redistributive element in the form of calls for minimum increases in cash terms for the lower paid, such as the €200 minimum in the public sector (Federal and local government) and €175 in private transport (North Rhine-Westphalia), effectively providing for higher percentage rises for these groups. As well as higher pay, trade unions also pursued claims for scope for individuals either to reduce their hours (as in the metalworking and electrical industry) or to choose between pay rises and cuts in working time, as at Deutsche Post AG (see Section 4).

Negotiations in some branches were accompanied by large-scale token ('warning') strikes, with some 1.5 million employees participating in nationwide action in the metalworking and electric industry alone, according to trade union IG Metall (2018), and 230,000 public sector staff in Federal and local government (ver.di 2018b). There was no collective bargaining in some large branches in 2018, either because their agreements ran to the end of the year or extended into 2019 and beyond: these included retailing, wholesale and foreign trade, the public sector for regional (*Land*) government, steel, and banking and insurance.

1.2 Settlements

Most new pay settlements in 2018 provided for two-stage increases extending over 2018 and 2019/2020 (*Table 1*). A strong indication that the coming year would see a more expansive approach to pay than in previous wage rounds came with the substantial settlement concluded in the metalworking and electrical industry in February 2018. The average settlement rate in 2018, that is the total increase in agreed pay rates over the whole duration of all agreements, was 5.7 per cent. Some adjustment needs to be made to this to account for the additional remuneration agreed in the metalworking and electrical industry that, although not consolidated into basic rates, will be a permanent and regular element: when this is included, the average settlement rate for the whole economy adds up to 6.9 per cent, substantially above the previous year.

In East Germany, the average settlement, at 6.5 per cent, was markedly higher than the 5.6 per cent average increase in the West, reflecting the continuing, and as yet unfinished, process of catch-up with West German pay levels. Overall, most branch-level settlements were clustered in the 4.5-6.5 per cent range.

As in some previous pay rounds, lump-sums and one-off payments played a significant role in 2018. Nearly half of all employees (46.4 per cent) received such a payment, often as compensation for short 'pay pauses' after a settlement during which agreed grade rates were not increased. For example, a lump-sum of €100 in lieu of a percentage rise was paid to all employees for one month in the metalworking and electrical industry, with €200 for two months in the chemicals industry, and €1,000 for nine months at Deutsche Bahn AG.

Table 1: Selected pay claims and settlements, 2018

Settlement date	Bargaining unit	Claim	Pay settlement		Duration
			2018	2019-2021	
10.01.18	Energy (North-Rhine Westphalia) (GWE)	5.0%	€200 lump-sum for 1 month 2.2% from 01/2018	2.1% from 01/2019	25 months to 12/2019
23.01.18	Wood and synthetic materials Baden-Württemberg	6.0%	€300 lump sum for 4 months 4.0% from 05/2018		21 months to 09/2019
06.02.18	Metalworking and electrical industry Baden-Württemberg	6.0 %	2-month pay pause €100 lump sum for 1 month 4.3% from 05/2018	27.5% of a month's income paid in July from 2019. €400 in July 2019 (12.3% of Grade 7, each July from 2020)*	27 months to 03/2020
09.03.18	Confectionery East	Grades A-D to be raised ahead of settlement, then 5.5%	2.5% from 01/2018	2.5% from 01/2019	25 months to 01/2020
10.04.18	Deutsche Post AG	6.0%	€250 lump sum for 8 months 3.0% from 10/2018	2.1% from 10/2019*	28 months to 05/2020
23.04.18	Private transport Brandenburg (Freight forwarding & logistics)	6.5% Equalisation with rates in Berlin	3-month pay pause, €15 per month flat-rate increase to all rates plus 3.0% from 04/2018	€15 per month flat-rate increase to all rates plus 2.8% from 04/2019	26 months to 02/2020
17.04.18	Public sector Federal and local govt.	6.0% with a minimum of €200 per month	3.5% on average from 03/2018 €250 one-off payment for Grades 1-6	3.6/3.4% on average (Federal/local) from 04/2019 1.2% on average from 03/2020	30 months to 08/2020
12.05.18	Construction	6.0%	2-month pay pause 5.7/6.6% West/East from 05/2018 West: €250 one-off payment in 11/2018	West: €600/250 one-off payment in 06/2019 and 11/2019 East: 0.8% from 06/2019 €250 one-off payment in 11/2019	26 months to 04/2020
17.05.18	Hotels and catering Bavaria	6.0%	1-month pay pause 2.8% from 06/2018	2.0% from 05/2019	24 months to 04/2020
18.06.18	Small (artisanal) bakeries Bavaria	6.0%	€190 lump-sum for 3 months 2.5% (sales staff 2.7%) from 07/2018	2.5% (sales staff 2.7%) from 04/2019	24 months to 04/2020
20.09.18	Chemical industry	6.0%	€280 lump-sum for 2 months 3.6% with regionally varying starting dates (10, 11, 12/2018)**		15 months to 10/11/12/2019
19.11.18	Private transport North-Rhine Westphalia (Freight forwarding & logistics)	6.5%, minimum of €175 per month	2-month pay pause	€75 p.m. = 3.5/2.7%) from 01/2019 €40 p.m. (= 1.8/1.4%) from 01/2020 €10 p.m. (= 0.4/0.3%) from 01/2021 on average for blue-collar/white-collar	34 months to 08/2021
15.12.18	Deutsche Bahn AG	7.5% paybill (EVG)	€1000 lump-sum for 9 months	3.5% from 07/2019 2.6% from 07/2020	29 months to 02/2021

* Employees may also opt for additional time off: see Table 3.

** From 2019, an increase in holiday pay from €20.45 to €40 per day.

Source: WSI-Tarifarchiv (as at 1 January 2019).

2. Annualised rise in collectively-agreed pay

In contrast to the settlement rate, the rate of increase in collectively-agreed pay for the calendar year is calculated by taking into account the effect of the timing and duration of settlements together with any agreed pay pauses, lump-sums or other one-off payments. In addition, the annualised rate includes not only new settlements but also any carry-over provisions agreed in previous years that took effect in the reference year.¹

The average annualised rise in collectively-agreed pay in 2018 is, therefore, based not just on new settlements for that year but also staged increases agreed in 2017 or before that took effect in 2018 and had an effect on pay until at least the end of that year. In all just under 20 million employees were covered by pay settlements operative in 2018; of these 11.1 million benefited from newly-concluded settlements and a further 8.6 million from increases agreed in 2017 or earlier.

2.1 Agreed increases in the whole economy

Agreed pay rose by an average of 3.0 per cent in 2018, taking into account both new settlements and carry-over provisions from previous years (Figure 2). The rate of increase in East Germany was 3.3 per cent, marginally above that of 3.0 per cent in the West. Looking just at new settlements applicable in 2018, agreed pay rose by as much as 3.5 per cent (3.4 per cent West/3.7 per cent East). By contrast, increases provided for in agreements concluded in previous years were considerably below this at an average of 2.5 per cent for Germany as a whole (2.4 per cent/West and 2.9 per cent/East).

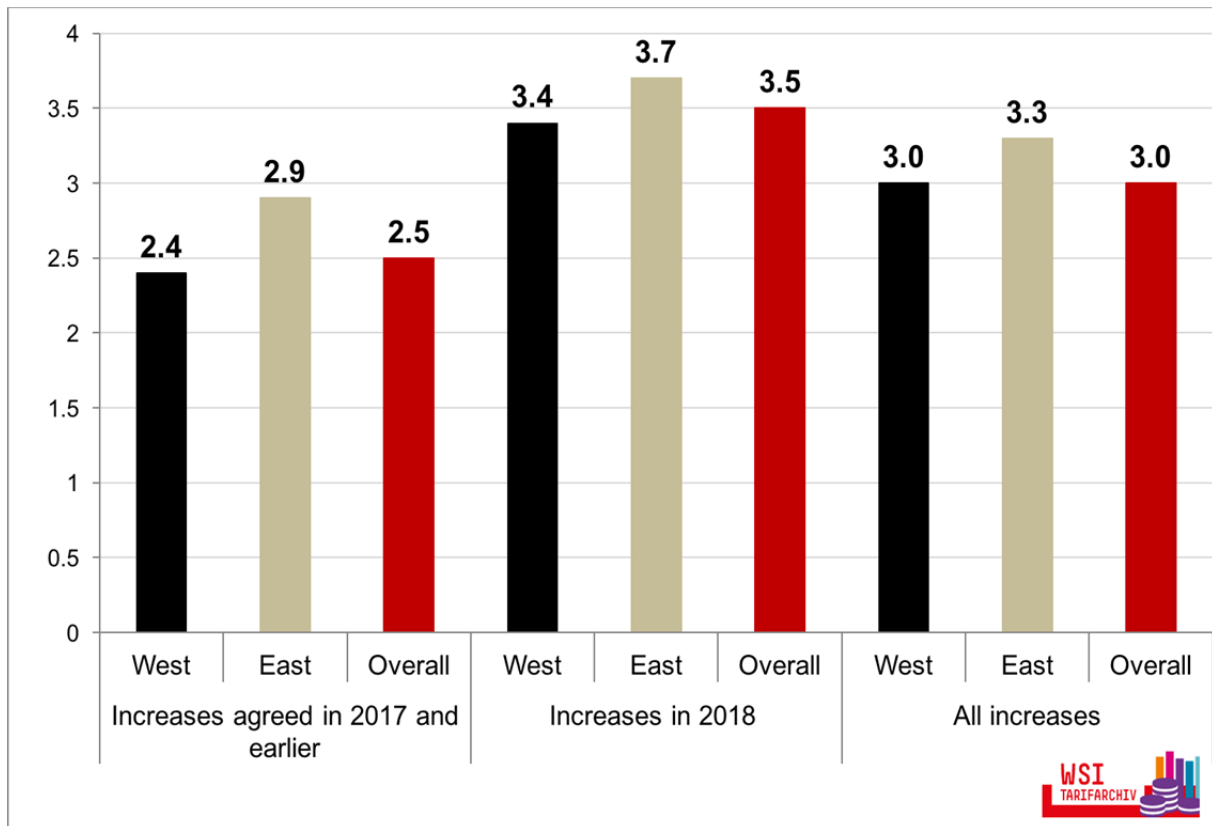
This nominal increase of 3.0 per cent for 2018 represents the second highest nominal rate of increase seen in the past two decades, and was exceeded only marginally – at 3.1 per cent – in 2014 (Figure 3). Compared to the increases in agreed pay of 2.4 per cent in both 2016 and 2017, 2018 saw a much more vigorous pace of pay growth, in part in response to higher price inflation.

Given average consumer price inflation of 1.9 per cent in 2018, agreed pay in real terms rose by 1.1 per cent, nearly twice as fast as in the previous year (when it was 0.6 per cent) but markedly below the real rate of increase in the period 2014-2016, when extremely low rates of consumer price inflation allowed real wages to expand at between 1.9 and 2.4 per cent.

¹ For detail on calculating the annualised rate, see Bispinck (2011).

Figure 2: Average increase in collectively-agreed pay, 2018

Year-on-year increase, in per cent



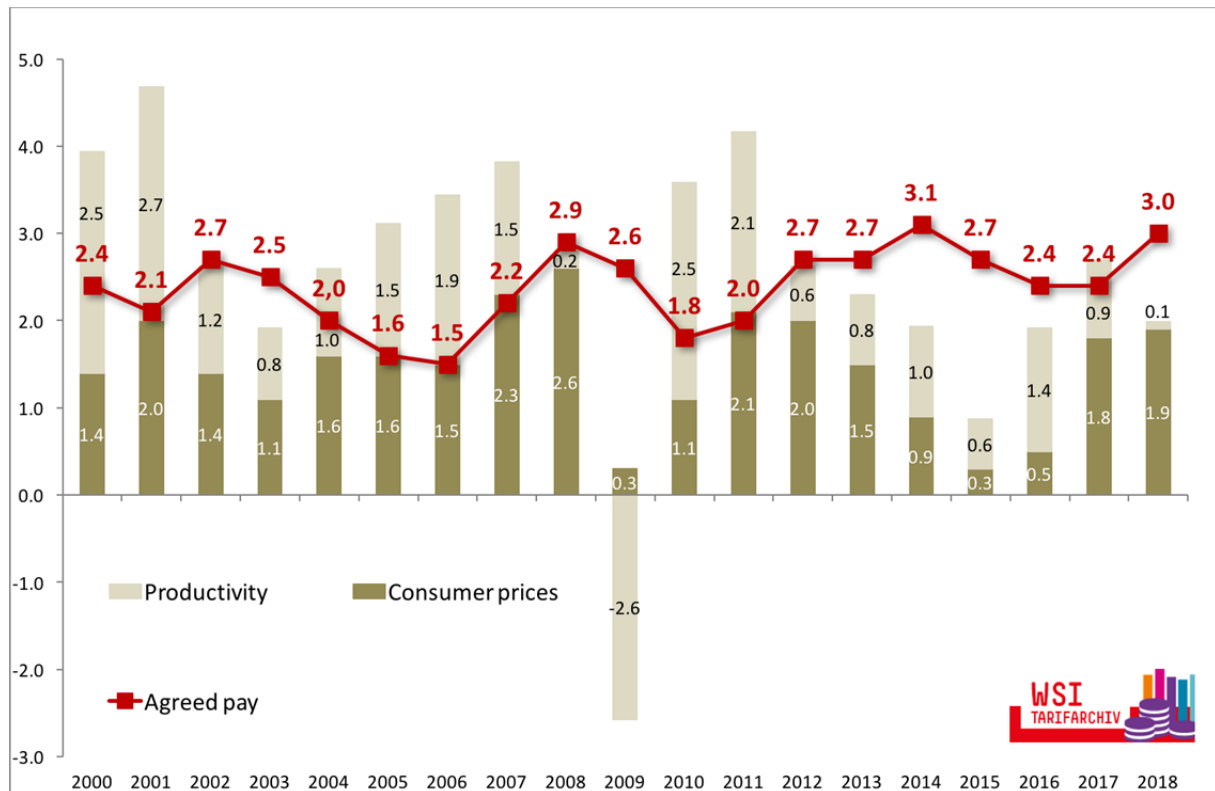
Source: WSI-Tarifarchiv 2019

The cost-neutral scope for nominal pay growth – the sum of consumer price inflation and productivity growth – was clearly exceeded by the increases in agreed pay recorded in 2018, a development that was favoured by the fact that high nominal pay growth was accompanied by stagnating productivity (*Figure 3*). Overall, the 2018 pay round continued the more expansive trend seen in recent years, with increases in agreed pay generally exceeding the cost-neutral scope for pay growth, following a period in the 2000s when these lagged some way behind this yardstick.²

² If instead of consumer prices, the GDP deflator is used to calculate the cost-neutral scope (see Görgens 2017), wage growth over the past few years appears much less expansive. The same applies if the target inflation rate adopted by the European Central Bank is used rather than actual price movements.

Figure 3: Agreed pay, consumer prices and productivity, 2000-2018

Year-on-year change, in per cent



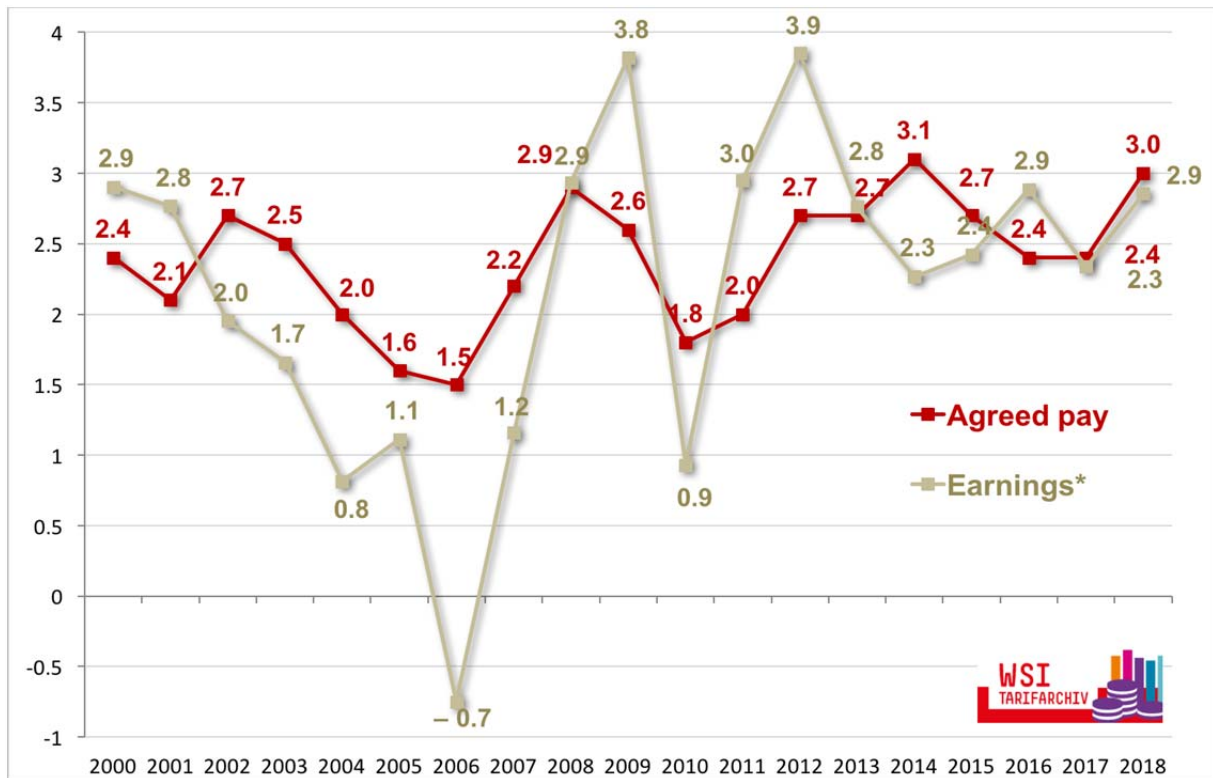
Source: WSI-Tarifarchiv 2019, German Federal Statistical Office

2.2 Agreed pay and earnings

In 2018, earnings per hour across the whole economy – that is not only the earnings of employees covered by collective bargaining but of all employees – rose by 2.9 per cent (Statistisches Bundesamt 2019), almost as fast as agreed pay (*Figure 4*), suggesting that that average pay for parts of the economy not subject to collective bargaining broadly kept pace with rises in agreed pay. Given that they include items such as overtime payments, other supplements, and workplace-level additions to industry-level rates, earnings tend to be a great deal more volatile and much more exposed to the effects of wider economic fluctuations than agreed basic rates. During the 2000s, the gap between agreed pay and earnings – wage drift – was generally negative as a result of falling collective bargaining coverage and high unemployment. In contrast, wage drift has generally been positive since 2011, notwithstanding considerable variability. As well as the generally more favourable economic situation, positive wage drift has also been driven by overtime supplements as a result of longer working hours and additional pay on top of agree minima at workplace level. Moreover, a tighter labour market has also meant that companies not covered by collective agreements could not allow their pay levels to lag agreed pay, boosting the earnings of employees outside collective bargaining.

Figure 4: Agreed pay and earnings* 2000-2018

Year-on-year change, in per cent



* Gross pay per employee per hour

Source: WSI-Tarifarchiv 2019, Statistisches Bundesamt

2.3 Pay settlements in individual branches

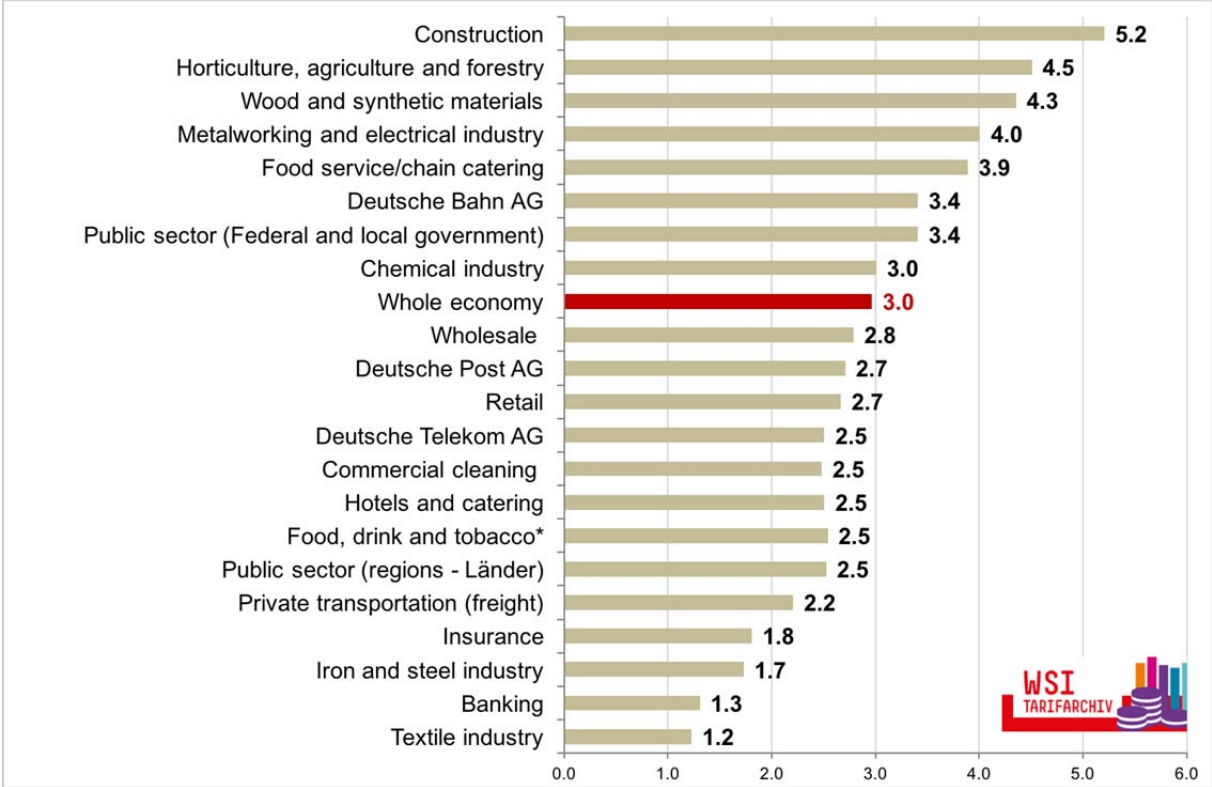
Settlements in 2018 varied considerably as between individual branches and sectors (*Figure 5*), led by the substantial 5.2 per cent increase negotiated in construction, where trade union IG BAU succeeded in pushing through much of the agreed increase early in the more than two-year life of the new agreement (*see Section 6.3*). There were also relatively high settlements in horticulture, agriculture and forestry, at 4.5 per cent; in the wood and synthetic materials processing industry, at 4.3 per cent; in the metalworking and electrical industry, at 4.0 per cent (*see Section 6.1*); and in the food service industry, at 3.9 per cent. Other above-average increases were agreed at Deutsche Bahn AG (at 3.4 per cent) and the public sector for Federal and local government, where certain employees, such as new entrants, the lowest-paid, and some skilled staff, received increases of over 4.0 per cent (*see Section 6.2*).

The settlement in the chemicals industry, at 3.0 per cent, was exactly in line with the all-economy average. This was followed by the wholesale branch, at 2.8 per cent, retailing and Deutsche Post AG, each with 2.7 per cent, and then a number of settlements all at 2.5 per cent (Deutsche Telekom AG, industrial cleaning, hotels and restaurants, food, drink and tobacco, and the public sector at regional – *Land* – level). Agreed pay in private transportation rose by 2.2 per cent.

Agreed wages and salaries in the insurance branch rose by 1.8 per cent in 2018, followed by 1.7 per cent in the iron and steel industry, 1.3 per cent in banking, and 1.2 per cent in the textile industry. For the most part, branches with below-average increases had agreed these in previous years with no fresh settlement in 2018.

Figure 5: Increase in agreed pay in 2018 in selected branches

In per cent, compared with the previous year



* Encompasses a number of branch agreements

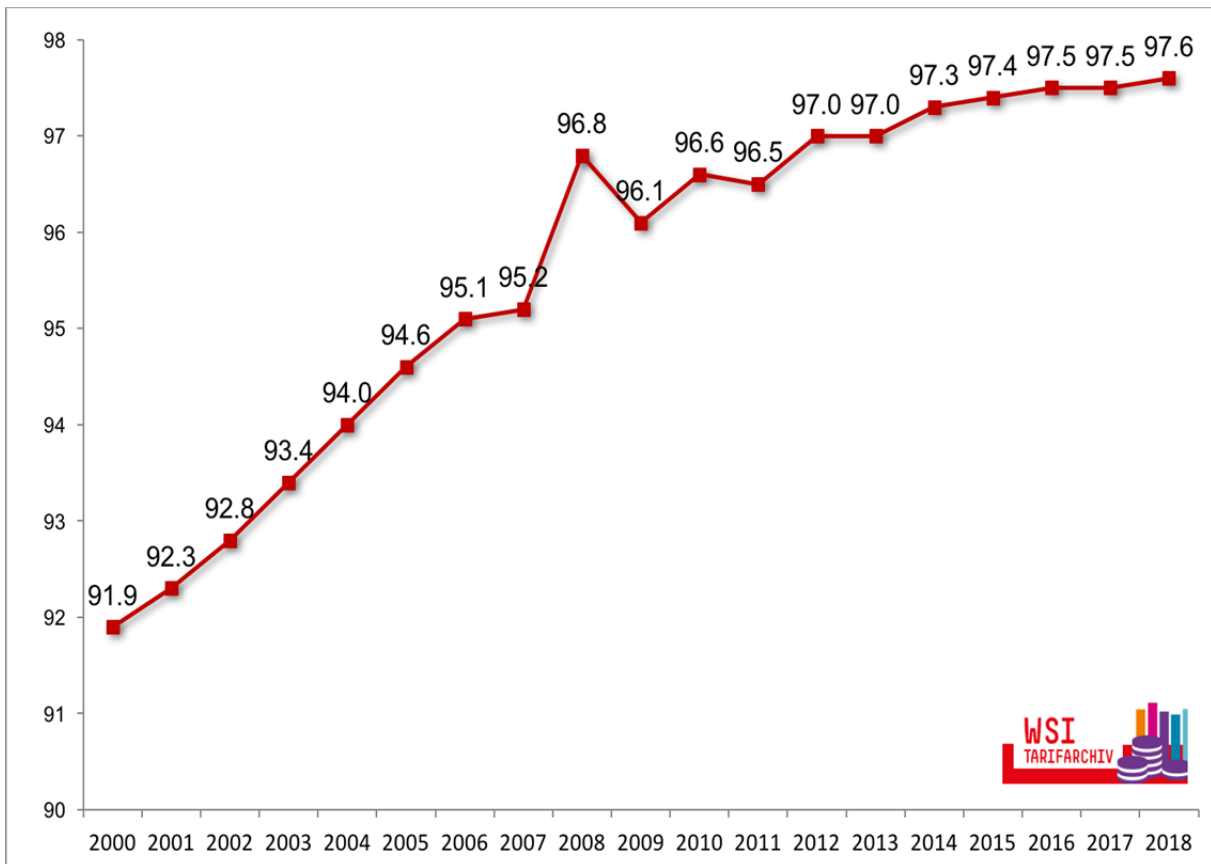
Source: WSI-Tarifarchiv 2019

2.4 Agreed pay levels in East and West Germany

Despite some 28 years elapsing since German unification, differences in levels of agreed pay continue to persist between West and East Germany. On average, agreed basic pay in East Germany in 2018 was 97.6 per cent of the West German level (*Figure 6*), with a small reduction in the gap compared with the preceding year as a result of somewhat higher settlements in the East. As well as differences in agreed basic pay, employees in East Germany often work under poorer terms in other aspects, and in particular working hours, which, on average, are one hour longer in the East than in the West (Bispinck et al. 2017).

Figure 6: Ratio of agreed pay between East and West Germany, 2000-2018

Agreed basic pay in East Germany as per cent of the West German level



Source: WSI-Tarifarchiv (as at 31.12.2018)

3. Statutory minimum wage and agreed branch-level minimum wages

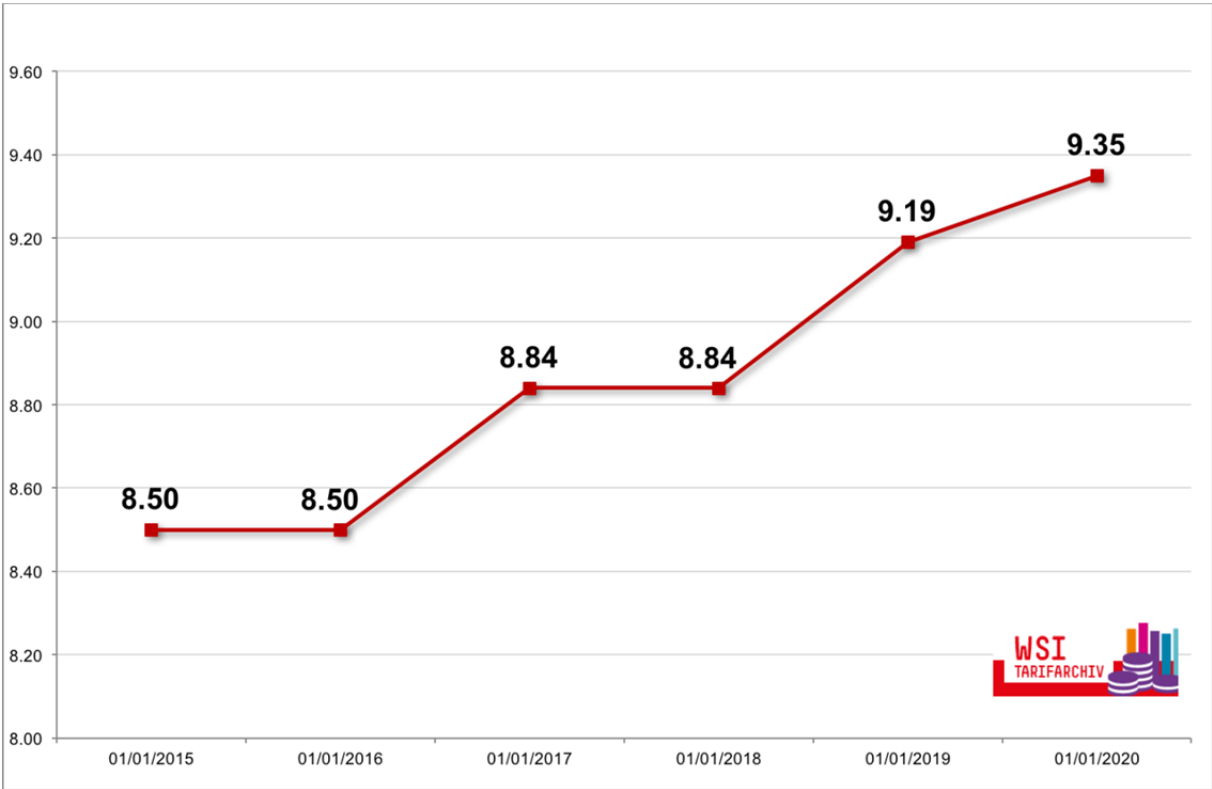
On the 1 January 2019, the statutory minimum wage was increased for the second time since its inception with the hourly rate rising from €8.84 to €9.19, in line with the recommendation of the Minimum Wage Commission (Mindestlohnkommission 2018). This was based on the average change in agreed pay for 2016 and 2017, as indicated by the agreed pay index produced by the German Federal Statistical Office.³ The Commission also recommended that a further increase, to €9.35, should take place on 1 January 2020, in the light the pay settlements reached during the first half of 2018. While each of the first two increases in the minimum wage since its introduction on 1 January 2015 took place after intervals of two years, in line with the provisions of the Minimum Wage Act (*Mindestlohngesetz*, MiLoG), the Commission's decision to bring forward the third increase was a response to growing criticism of the low level of the minimum wage, which was judged

³ Differences in the method of calculation and the fact that the collective agreements included in each series are not wholly identical means that the WSI and Federal Statistics Office figures for agreed pay might differ slightly, but usually by not more than a few tenths of a percent. The same applies to the Bundesbank's collective bargaining statistics.

to be both insufficient to provide for an acceptable minimum standard of living (Herzog-Stein et al. 2018) and lagging behind other Western European countries (Schulten and Lübker 2019). Allowing for the scheduled increase to €9.35 on 1 January, the statutory minimum wage will have risen by 10 per cent in all over the first five years of its existence, equivalent to an annual rate of growth of some 2.0 per cent (Figure 7).

Figure 7: The statutory minimum wage in Germany, 2015-2020

In Euros per hour



Source: German Minimum Wage Commission (Mindestlohnkommission)

At the start of 2019, agreed minimum wage rates negotiated at branch level had been declared generally binding under the provisions of either the Posted Workers’ Act (*Arbeitnehmer-Entsendegesetz*), the Collective Bargaining Act (*Tarifvertragsgesetz*) or, for agency employment, the Agency Employment Act (*Arbeitnehmerüberlassungsgesetz*) (Table 2).⁴ Rates ranged from €10.05 in the industrial cleaning branch in East Germany to €17.25 for cash and valuables in transit in North Rhine-Westphalia. The only branch with a minimum substantially below the 10-Euro mark is agency work, with a lowest permitted hourly rate of €9.49. In most of these branches, there is no difference between East and West Germany in terms of hourly rates. The exceptions are industrial cleaning, painting and varnishing, and social care, where employees in the East earn less than their West German colleagues.

⁴ These statutes contain provisions that allow either for collective agreements to be extended or for negotiated minimum rates to be applied to all employments, irrespective of whether the employer is a signatory to the relevant collective agreement. The Posted Workers Act was introduced in 1996 to transpose the EU Posted Workers Directive but adapted to enable legally-binding minimum wage rates to be set in certain branches. Agency employees in Germany are directly employed by agencies.

Table 2: Generally-binding agreed minimum branch-level pay rates, 2019

In € per hour

Branch	West	East
Vocational training and education*	15.72	15.72
Construction (Unskilled)	11.75	11.75
Construction** (Skilled)	14.95	
Roofing (Unskilled)	12.20	12.20
Roofing (Skilled)	13.20	13.20
Electrical contracting	11.40	11.40
Commercial cleaning (Internal cleaning and upkeep)	10.56	10.05
Commercial cleaning (External and glass)	13.82	12.83
Cash and valuables (static services)*	11.80-14.28	11.27
Cash and valuables in transit*	13.79-17.25	13.53
Scaffolding	11.35	11.35
Agency employment	9.49	9.49
Painting and varnishing (unskilled occupations)	10.60	10.60
Painting and varnishing (journeyman)	13.30	12.40
Social care	11.05	10.55
Chimney sweeping*	13.20	13.20
Stonemasonry	11.40	11.40

* Collective agreement not yet declared generally binding.

** Other provisions apply in Berlin.

Source: WSI-Tarifarchiv (as at January2019)

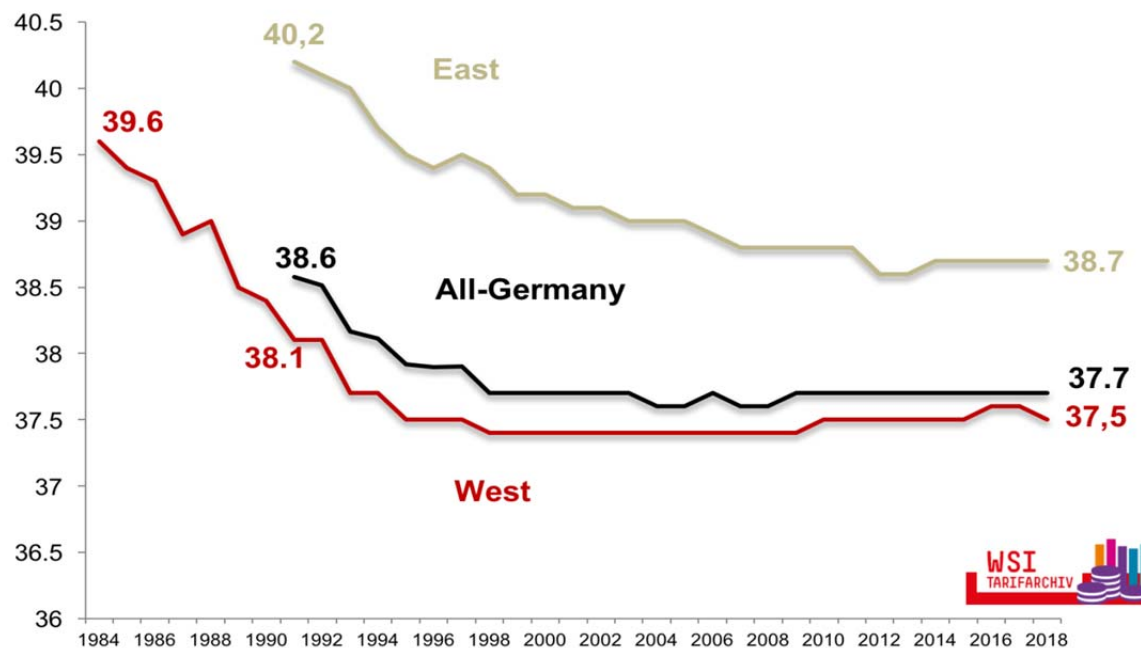


4. Agreed working hours and employee choice

The issue of reducing working hours has tended to take a back seat in recent negotiating rounds. Following an intensive phase of bargaining over working time between the mid-1980s and mid-1990s, culminating in the introduction of a 35-hour week in the West German metalworking industry and a small number of other branches, agreed weekly working hours have remained broadly constant for some two decades (Bispinck et al. 2017, *Figure 8*). In 2018, the average agreed working week stood at 37.7 hours, as in the preceding year. And at 38.7 hours, agreed weekly hours in East Germany were, on average, one hour longer than in the West.

Figure 8: Average agreed weekly working hours, 1984 – 2018

In hours



Source: WSI-Tarifarchiv (as at 31.12. 2018)

Nonetheless, working time reductions did return to the bargaining agenda in some branches more recently (Schulten and WSI-Tarifarchiv 2018) and figured as a core issue in the 2018 round. In contrast to previous years, however, trade unions were not calling for across-the-board cuts but rather for greater individual choice. Once again, the pioneer was the metalworking and electrical industry, where union IG Metall submitted a claim for an individual right for certain categories of employee to reduce their hours for a limited period with only a partial loss of earnings. The settlement eventually agreed now allows all employees to cut their working week to 28 hours and return later to usual full-time hours. In addition, an employee choice model was agreed allowing shift workers and employees with children or family members needing care to opt either for the new annual supplementary payment of 27.5 per cent of a month's pay or eight additional days off a year (Section 6.1).

The main inspiration for the metalworking settlement was a deal concluded in December 2016 between the Rail and Transport Union EVG and Deutsche Bahn AG (Bispinck and WSI-Tarifarchiv 2017). Under this pioneer agreement, employees could opt either for a 2.6 per cent pay rise from 1 January 2018, a shorter working week, or six days' additional holiday each year. This model was continued in the most recent settlement at Deutsche Bahn in December 2018, with a further choice of a 2.6 per cent rise, one hour less a week, or six additional days off. From 2021, railway staff will be able to combine these successive options, enabling them to choose between 5.2 per cent more pay, two hours off the working week, or 12 more days off each year. EVG has stated that it would like to extend this model to all other agreements in its scope. And IG Metall has also indicated it would adopt a similar approach, either where such choice models already exist or are on its negotiating agenda.

Table 3: More money – or more time off?
Individual choice options in new collective agreements

Branch	Employee choice		Eligible employees
	Money or time	
Deutsche Bahn AG	2.6% (from 2018)	1 hour a week working time reduction or 6 days off per year	All employees subject to collective agreement
	2.6% from 07/2020 or 5.2% from 01/ 2021	1 hour a week working time reduction or 6 days off per year (from 07/2020) and 2 hours a week or 12 days per year (from 01/2021)	
Metalworking and electrical industry	Agreed supplementary bonus of 27.5% of a month's pay per year (from 2019)	8 days off per year	Employees: - working shifts - with children under 8 - with relatives requiring care
Deutsche Post AG	3.0% (from 2019) or 2.1% (from 2020) or 5.1% (from 2020)	60.27 hours cut per year 42.19 hours cut per year 102.46 hours cut per year	All employees subject to collective agreement
Local public transport Bavaria	Up to 2.5%	max. of 5 days off per year	All employees under collective agreement
	Above plus 0.25% (and 0.25% from the employer)	Above plus 1 extra day off per year	Employees on shifts

Source: WSI-Tarifarchiv 2019



In 2018, the services trade union ver. di (*Vereinte Dienstleistungsgewerkschaft*) also concluded agreements allowing choice between pay rises or additional time-off. The first of these, in April 2018, was at Deutsche Post AG; from 2019, employees here can opt for either a 3 per cent pay rise or a cut of 60.27 hours in annual working time. From 2020, there will be further option of either a 2.1 per cent rise or a 42.19 hour working time reduction. Employees will also be able to combine the two sets of options. A similar agreement was concluded for local public transport in Bavaria, with a choice between a 2.5 per cent rise or 5 additional days off, with shift workers entitled to a further day off.

Finally, the chemical and energy union IG BCE and its employer counterpart, BAVC, concluded an accord ('Roadmap 4.0') under which the two sides committed themselves to develop options for greater 'employee sovereignty' on working hours, to include a choice between time and pay, before the next negotiating round in autumn 2019, (IG BCE 2018).

Initial feedback indicates that the option of additional days' off has been welcomed by employees. At Deutsche Bahn AG, 56 per cent of the workforce chose the additional holiday, 42 per cent took the pay increase, and just 2 per cent preferred the shorter working week (EVG 2017). According to IG Metall (2019), 260,000 employees in the metalworking and electrical industry applied for additional days off, with 93 per cent of applications granted.

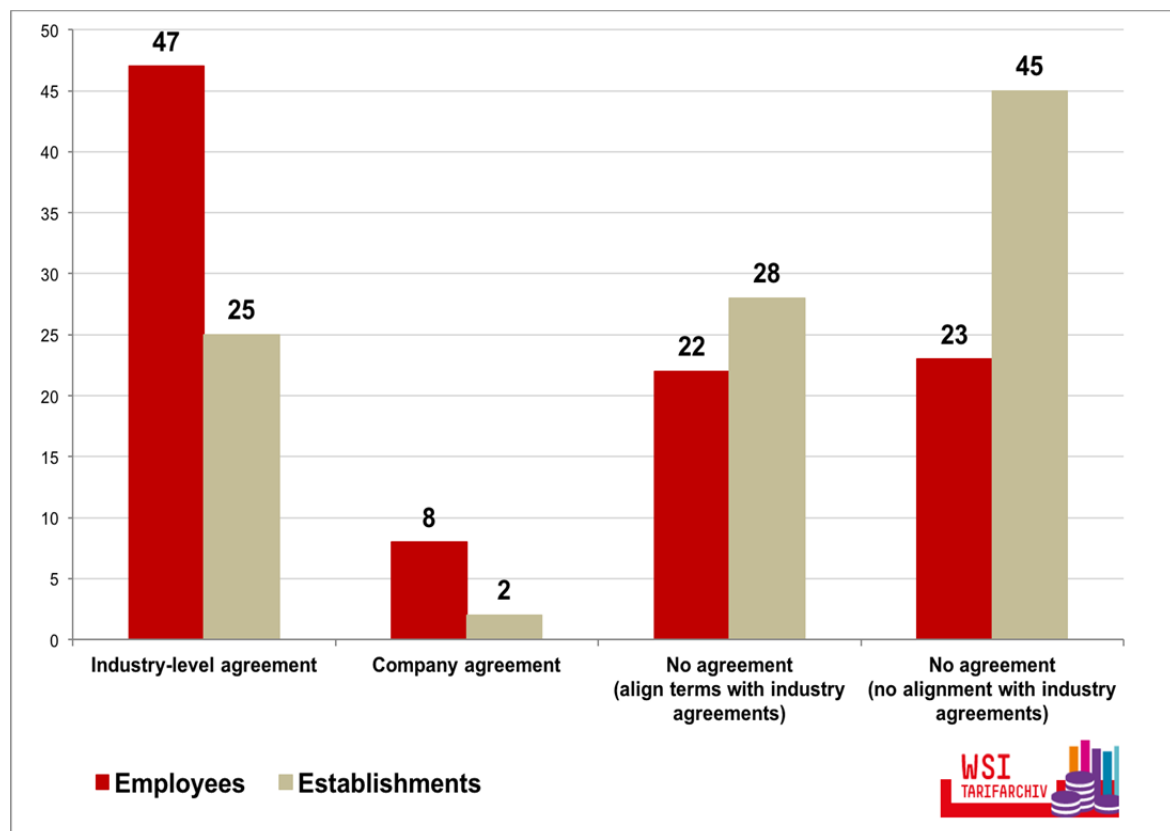
5. Collective bargaining coverage

In 2017, according to data from the IAB-Establishment Panel, only 55 per cent of *employees* were employed in workplaces where terms and conditions were set by collective bargaining, with 47 per cent in workplaces covered by an industry-level agreement and 8 per cent by a firm- or organisation-level agreement (*Figure 9*). Moreover, only 27 per cent of *workplaces* were covered by a collective agreement, reflecting the very low level of collective bargaining in small establishments. And although a relatively large number of companies that are not formally covered by collective agreement indicate that they use these as a guideline or 'orientation', what this means in practice is highly variable, and in most cases evidently includes divergence from some key agreed terms.

The trend to falling collective bargaining coverage that took hold in the 1990s has continued in recent years (Ellguth and Kohaut 2018; Kohaut 2018), with markedly lower coverage in East Germany than the national average and significant differences between regions (*Länder*) in the West (Schulten et al. 2018). There are also considerable differences between branches, with only a minority of the workforce in private services covered by a collective agreement, for example.

Figure 9: Collective bargaining coverage, 2017

As per cent of employees and establishments



Source: IAB Establishment Panel (2018)

Some branches also experienced considerably difficulty in sustaining existing negotiating arrangements in the 2018 pay round. In the printing industry, for example, for the first time ever it was not possible to secure a single national-level agreement. The service trade union ver.di, which negotiates for this branch, has indicated that it will attempt to conclude industry-level agreements in some regions (*Länder*) by regionalising bargaining (ver.di Verlage und Druck 2019). The situation is also especially challenging in retail, where only 39 per cent of the workforce are currently employed in companies covered by a collective agreement and where a growing number of firms continue to withdraw from collective bargaining, as happened in 2018 with the Real hypermarket chain (at that time, part of the Metro Group).

Despite this, 2018 saw several instances in which strong trade union action was able to press companies into concluding collective agreements. One of the more spectacular instances of this was the prolonged campaign at the Irish airline Ryanair, where in November 2018 ver.di succeeded in concluding an understanding with the company on a number of key points ahead of a formal collective agreement (ver.di Verkehr 2018). All trade unions have continued to work hard to raise the level of collective bargaining coverage through systematic organising and gaining union members in new workplaces. Since 2016, for example, IG Metall in Baden-Württemberg has succeeded in bringing 33,000 employees in 106 workplaces either back within the scope of collective bargaining or achieving this for the first time (IG Metall Baden-Württemberg 2019).

As well as building organisational power at the workplace, an approach that can build on the fact that collective agreements may lawfully provide for more favourable treatment for trade union members than for non-union employees, trade unions have also considered possible legal changes that might help raise the level of collective bargaining. In February 2017, the DGB (DGB, 2017) produced a wide-ranging position paper summarising the key measures needed to consolidate and strengthen the system. For example:

- Provisions in statute law allowing further stipulations of employment terms and conditions to be derogated to collective bargaining ('dispositive law'), even if unfavourable to employees, should be allowed only if these do not weaken minimum collectively-agreed standards and offer an equivalence provision;
- Statutory limitations to be placed on the scope for employer associations to establish forms of membership that do not require compliance with collective agreements, known as 'OT membership' (OT = '*ohne Tarifbindung*' or 'without compliance');
- Collective agreements applicable at a firm/organisation to continue in force automatically where a firm sheds individual units;
- Improvements to the statutory principle under which the provisions of collective agreements continue in force after an agreement formally expires or has been terminated with notice ('evergreen' rule);
- Introduction of a right for organisations to initiate legal actions in labour law;
- Further reform of the law on the extension of collective agreements;
- Retention and strengthening of laws and regulations on contract compliance;
- Improvements in trade union rights of access to establishments;

6. Key branch-level bargaining rounds

The start of the 2018 bargaining round was initially dominated by negotiations in the metalworking and electrical industry. This was followed by the public sector, where bargaining took place for employees in Federal and local government. The third large sets of negotiations in early-2018 were in construction, where these culminated in a conciliated settlement in May 2018.

6.1. Metalworking and electrical industry

Claim

Given the favourable business situation in the metalworking and electrical industry, trade union IG Metall decide not only to press for substantial pay increases but also to return to the issue of working hours. Prior to the start of negotiations, IG Metall undertook a large-scale survey, to which some 700,000 employees responded. The aim was to establish, firstly, what hours were actually worked in the industry; and, secondly, what hours employees wanted (IG Metall 2017a). The key finding was that, for many employees, there was a gulf between the working hours formally provided for in the collective agreement, the hours they actually worked, and the hours they wanted to work. Consequently, one of IG Metall's priorities for the 2018 round was to press for greater individual choice ('employee sovereignty') over working time (Zitzelsberger 2018).

Following extensive discussions at workplace level and in regional bargaining committees, on 26 October 2017 IG Metall's executive committee announced the following claim for the 3.9 million employees in the industry (IG Metall 2017b):

- a 6.0 per cent increase in pay for all employees and trainees for 12 months;
- introduction of an individual employee right to reduce their working week to 28 hours for up to 24 months, with a right to return to their previous contractual hours;
- part compensation for forgone earnings of €200 per month for those employees who reduced their working week by at least 3.5 hours and used this to look after children under 14 years of age or to provide care for other family members;
- part compensation for forgone earnings of €750 per year for workers who reduced their hours and who work on shifts or other arduous working time arrangements;
- one day's time off per exam day for trainees to prepare for examinations;
- a commitment to engage in negotiations to equalise pay, working hours, and other terms and conditions between East and West Germany.

Negotiations

Immediately after IG Metall had published its claim, the employer association, Gesamtmetall, rejected it as 'unrealisable' (Gesamtmetall 2017), levelling particular criticism at the call for an individual right for employees to reduce their hours, which the employers argued would merely exacerbate skill shortages. Drawing on the terminology used for retiring old vehicles in Germany, the employer side dubbed the demand for partial financial compensation as tantamount to a 'scrappage bonus for skilled staff'. Gesamtmetall also obtained a legal

opinion in which the demand for partial compensation for lost earnings for some groups was characterised as ‘discriminatory’ and hence ‘unlawful’.

At the start of negotiations in Baden-Württemberg on 15 November 2017, the regional employers’ association, Südwestmetall, then came forward with a list of counter-demands that were subsequently adopted by all the regional employer associations in the industry. Südwestmetall (2017a) called for:

- ‘scope for individual employees to agree to work for more than 35 hours a week, temporarily or permanently, without any plant-level restrictions on the proportion of the workforce to which this might apply’;⁵
- ‘a provision in the industry collective agreement to allow a collective and temporary increase in working hours, when required and via a works agreement, with no pay supplement apart from overtime rates’;
- ‘an agreed provision that would stipulate when premium wage rates would be payable and what their level should be in a way that would support international competitiveness. This should also specify that such premium rates would not be payable when employees themselves are able to determine when they will work’;
- ‘scope to ease the conclusion of fixed-term contracts where no justification is required’ using the provision in the existing statute that permits variation from the norm by collective agreement;
- ‘a joint approach to the legislator to reform the Working Time Act’.

The employers made their first offer in the second round of negotiations in early/mid-December. As well as a lump sum of €200 to cover the period from January until March before raising pay rates, this provided for an increase in agreed rates of 2.0 per cent from April 2018 for 15 months. IG Metall was also to agree to a substantial widening of the options to extend working hours at workplace level (Südwestmetall 2017b). There was no offer of an individual right to reduce hours temporarily. IG Metall rejected the offer as ‘a provocation’.

The first two negotiating rounds were accompanied by numerous demonstrations. And once the ‘peace obligation’ requiring the union to refrain from industrial action had expired, IG Metall was able to organise a large wave of token (‘warning’) strikes to coincide with the third round of negotiations in January 2018. One outcome of this in Baden-Württemberg was the setting up of an expert commission of highly-experienced negotiators from each side with the task of working up possible solutions for a settlement on working time ahead of the next round. It was also decided that the pilot agreement, setting the pattern for other regions, should be in Baden-Württemberg.

Following the failure of the fourth and fifth rounds of negotiations in Baden-Württemberg to produce a settlement during January 2018 despite the work of the expert commission, and after the employers had withdrawn certain commitments they had already made, IG Metall decided to organise a 24-hour token strike throughout Germany that, according to the union involved some 1.5 million employees (IG Metall 2018). Finally, on the verge of possible unlimited strike action, a settlement was achieved in the sixth round of negotiations in Baden-

⁵ Under a major agreement in the metalworking industry concluded in 2004, working hours for some employees may be extended up to 40 hours a week from the standard 35-hour week subject to certain quantitative limits (such as an upper limit on the proportion of the workforce allowed to do this) (Schulten/Bispinck 2018).

Württemberg held on the 5-6th February 2018; this was subsequently adopted, with minor regional differences, in all the other bargaining regions in the industry.

Settlement

The settlement achieved in Baden-Württemberg consisted of a complex set of provisions, many of them entirely new (Zitzelsberger 2018). On pay, the following was agreed:

- after a two-month 'pay pause' (January/February 2018), all employees would receive a lump-sum payment of €100 (€70 for trainees) to cover March 2018;
- from April 2018, agreed rates to rise by 4.3 per cent for all employees and trainees;
- a new additional annual supplementary payment ('tarifliches Zusatzentgelt' or 'T-ZUG') of 27.5 per cent of a month's pay, payable for the first time in July 2019;
- introduction of an annual flat-rate payment of €400 (€200 for trainees), also first payable in July 2019, to be increased in future in line with agreed pay growth and, as the same sum for all, seen as a means to mitigate differentials between grades. Firms in economic difficulties may delay, reduce or cancel the payment subject to workplace agreement and with the consent of the signatories to the industry agreement;
- the agreement to run for 27 months to 31 March 2020.

The following new provisions were agreed on working time as variations from the standard 35-hour week in West Germany and 38-hour week in the East in the industry:

- introduction of an individual right to request 'short full time': that is, a cut in the working week to 28 hours for between six and 24 months with a right to resume full time thereafter. All full-time employees with at least two years' service are eligible. The employer may refuse a request if more than 10 per cent of an establishment's workforce have already been granted the option. The same applies if an applicant possesses certain key skills and there is no reasonable prospect of finding a direct replacement.
- Employees with children aged 8 or under or family members needing care or those working on strenuous working systems, such as shift work, have the option of choosing eight additional days off instead of the annual supplementary payment (the 'T-ZUG'). This is worth two days more than the strict equivalent in money terms.

As compensation, employers obtained greater scope to extend the working week to 40 hours for a proportion of their workforce. On this, the provision in Baden-Württemberg (with some regional variations elsewhere) stipulated:

- continuation of the existing option for employers to raise the working week for up to 18 per cent of their workforce to 40 hours;
- where establishments are exposed to proven skill shortages, the working week can be extended to 40 hours for up to 30 per cent of the workforce, subject to works council agreement;
- extension of the existing option applicable in establishments with a high proportion of highly-skilled employees that allows the working week to be extended up to 40 hours for up to 50 per cent of the workforce;

- introduction of a new working time model, under which establishments may extend individual weekly hours for some employees up to 40 until the average working week for all employees in an establishment reaches 35.9 hours.

This settlement in the metalworking and electrical industry was notable in a number of respects. Firstly, the pay aspect represented above-average increases at a level not seen since the late-1990s (Schulten 2018). Secondly, the introduction of individual employee choice on working hours marked a pioneering and significant step towards greater employee working time ‘sovereignty’ (Zitzelsberger 2018). Initial evaluations by IG Metall in January 2019 suggested that employees have particularly appreciated the option of additional days off. Around 260,000 employees had submitted applications, with 93 per cent granted. The scope for additional days off has been especially welcomed by shift workers, with 170,000 making use of the option. A further 55,000 employees with children and 17,000 with family members needing care have used this option (IG Metall 2019).

6.2 Public sector (Federal and local government)

Claim

The 2018 pay round for employees in Federal and local government also took place under very favourable economic circumstances, with continuing economic growth generating a strong public finance position. This led to the submission of an ambitious claim by negotiators for the employee side. Collective bargaining for the 2.1 million employees under collective agreement in this part of the public sector is conducted as a single-table negotiation by a bargaining group made up of four DGB-affiliated trade unions (ver.di, the education union GEW, IG BAU, and the police union GdP) together with the section of the German Civil Servants Federation (DBB) that represents other public employees subject to collective bargaining.⁶

On 8 February 2018, as the largest trade union in the public sector, ver.di’s federal collective bargaining committee agreed the following claim to be pursued with the Federal government and the Association of Local Government Employer Associations, the VKA (ver.di 2018a):

- a pay increase of 6.0 per cent for all grades, but at least €200 a month, for 12 months;
- the night shift premium rate in hospitals to be increased to 20 per cent;
- increase of €100 for trainees’ pay and interns’ allowances;
- reintroduction of an earlier provision, under which all trainees will be offered transition to employment on completion of training.

The core demand was a claim for a substantial pay rise of 6.0 per cent, which the trade unions saw as warranted by the need to close the continuing gap between public and private sector pay and raise the attractiveness of working in the public sector. The minimum rise of

⁶ This section, known as the ‘Tarifunion’, includes numerous organisations representing specific occupations in the public sector. The DBB also represents civil servants (*Beamte*) who do not have collective bargaining rights.

€200 was included as a redistributive ('social') component of the claim, with this being equivalent to 10 per cent pay rise for some lower-paid grades.

The ver.di negotiating committee also set out a number of additional 'expectations' on the employer side, related to the following demands:

- increase in the level of additional holiday for employees on rotating and other shifts by 50 per cent;
- raising the calculation base for the annual bonus payable in local government in East Germany to the level applicable in the West;⁷
- inclusion of statutory breaks into paid working hours for staff on rotating shifts in hospitals and care facilities;
- increase in the premium for Saturday work in hospitals to 20 per cent;
- extension of the scheme for phased early retirement (*Altersteilzeit*);
- commitment to negotiate on extending the scheme for employees with a reduced working capacity;
- increase in annual holiday allowance for trainees and internees to 30 days;
- improved provisions to cover trainees' costs when attending external training facilities;
- extension of the provision for subsidies for learning materials to the care sector;
- introduction of an 'opening clause' in the collective agreement to allow negotiations on free travel on local public transport.

Finally, as usual in pay bargaining in the public sector, the Federal government was called on to extend the settlement to established civil servants (*Beamte*), judges, members of the armed forces, and former members of these groups in receipt of a state pension.

Other trade unions in the bargaining group accepted the ver.di claim, in some instances supplementing it with their own demands for specific occupational groups. The education union GEW, for example, put forward its long-standing demand to include teaching staff employed by some local authorities into a negotiated pay structure (GEW 2018).

Negotiations

The employers initially rejected the claim and, as well as the usual reference to its 'unaffordability', also emphasised, in opposition to the call for above-average rises for the lower paid, that this group was already better paid than its equivalent in the private sector. Instead, they pointed to the problem of selective skill shortages in the public sector, such as in IT or engineering, and argued that improvements needed to be in terms and conditions for employees in higher grades to make these more attractive (VKA 2018).

Following the refusal of the employers to make a concrete offer in the first two negotiating rounds in late-February and mid-March, the trade union side organised a wave of national-level token strikes in which some 230,000 employees participated from all areas of the public sector (ver.di 2018b). Further talks continued between the two sides, allowing a settlement to be finally concluded in a three-day third round of negotiations (15-17 April 2018).

⁷ The bonus, paid in November, is a proportion of salary received during July-September. The proportion used to calculate the bonus in East Germany, at 75 per cent, has historically been below that in the West.

Settlement

The settlement consisted of a wide-ranging package with both general provisions as well as number of innovations for specific employee groups. In contrast to previous years, the two sides did not agree on a general rise in agreed pay rates but de facto concluded a far-reaching reform of the overall wage structure that led to specific increases for individual grades. On average, the following pay increases were agreed:

- The total paybill was raised by 8.4 per cent over a 30-month period;
- Increases to be effected in three stages, with an average of 3.5 per cent from March 2018, a further 3.6/3.4 per cent from April 2019, and 1.2 per cent from March 2020.

Above-average increases of more than 10 per cent across the whole of the duration of the contract were agreed for the lowest pay grades, new starters and some skilled grades. While all employees will receive relatively high pay increases, the two sides succeeded in offering specific help to some groups through what was effectively a reform of the grading system.

In addition to the pay increases and reform of the pay structure, the settlement also provided for several other provisions applicable to specific groups of employees, including:

- an additional one-off payment of €250 for employees in lower pay grades (1-6);
- staged increase in the annual bonus for employees in local authorities in East Germany up to the level in the West;
- increase in additional holiday for staff on rotating shifts in local authority hospitals by one day each time on 1 January 2019, 2020 and 2021;
- increase in trainees' pay by €50 per month on 1 March 2018 and 2019 for trainees in all years of training;
- lengthening holiday entitlement for trainees from 29 to 30 days;
- extending the provision guaranteeing trainees transfer to employment to October 2020;
- extending the agreements on phased early retirement and flexible working hours for older employees until August 2020.

Other provisions dealt with specific groups of public sector employees, such as sections of the Federal government, social and care services, nurseries, meat inspection, utilities, and local public transport in some regions.

In a membership survey organised by ver.di (ver.di 2018b), to which around 100,000 employees responded, 80.52 per cent indicated that the settlement should be accepted. According to Frank Bsirske, ver.di's general secretary, the settlement represented the 'best result in many years' (cited in Spiegel-Online, 18 April 2018).

6.3 Construction

Claim

The German construction industry has benefited from several years of strong growth on the back of the favourable economic situation and the low interest rates that have made house building for owner occupation especially attractive. While construction companies have enjoyed record levels of turnover, the industry has been increasingly affected by skill shortages, however. One of the priorities of the trade union in the branch IG BAU has been to ensure that construction remains an attractive industry to work in and that its 700,000 employees should participate from its success in the form of substantial increases in pay.

This set the context for the meeting of the lay federal negotiating committee that met on 25 November 2017 in Frankfurt am Main to decide the claim for the 2018 round. This included (IG BAU 2017):

- a pay increase of 6.0 per cent for 12 months;
- introduction of a full additional '13th month' salary across the entire branch;
- travel-to-work to be paid as working time to remove the disadvantage incurred by mobile workers;
- more attractive training arrangements in the construction industry, to include a requirement for employers to cover all training costs, such as travel to external training facilities.
- achieving the agreed equalisation of pay between East and West Germany by 2022.

Following agreement on a substantial increase in the special agreed minimum wage for the industry in separate negotiations in the autumn of 2017, attention turned to negotiating improvements in the pay and conditions for all employees in construction.

Negotiations

National negotiations between IG BAU and the two employer associations in the industry, ZDB and HDB, began in February 2018 and extended over three inconclusive rounds, followed by a further four months of conciliation. One problem during the first round in February 2018 was that one of the employer association, the ZDB, had not been granted a full negotiating mandate by all of its regional affiliates (IG BAU 2018a).

In the second round of negotiations in late-February/early-March 2018, the employers made their first offer of a 1.65 per cent pay increase for 12 months, with an additional 1.35 per cent for employees in East Germany. There was no response to the other elements of IG BAU's claim. And in view of the favourable business situation in construction, as well as in the much higher increases already agreed in other branches such as the metalworking and electrical industry, IG BAU rejected the pay offer as completely inadequate (IG BAU 2018b).

Following a third negotiating round in mid-April 2018, IG BAU formally stated that negotiations had broken down and called for conciliation. Under these circumstances, the construction industry conciliation agreement stipulates that the conciliator's award will be binding. The conciliation panel consists of four representatives of each side, plus a neutral

chair who is entitled to cast a vote. In the 2018 round, this role was occupied by the former labour and economics minister Wolfgang Clement who had already exercised this function in four preceding bargaining rounds in construction since 2007.

Following the official start of conciliation on 7 May 2018, the procedure gave the two sides a maximum of 14 days to achieve an outcome before the ‘peace obligation’ expired. IG BAU organised a further large demonstration of 1,500 building workers during conciliation to add weight to its campaign and show its readiness for more extensive industrial action.

Settlement

Following an initial conciliation round that ended without an outcome, a conciliation award was submitted on 11/12 May 2018 after a second round, as set out in Table 4.

Table 4: Conciliation award and settlement in construction

Pay increase (including convergence of East/West rates)	West	East
From 1 May 2018	+ 5.7%	+ 6.6%
From 1 June 2019		+ 0.8%
One-off payments		
On 1 November 2018	€250	
On 1 June 2019	€600	
On 1 November 2019	€250	€250
Special payment (13 th month salary)	Extension of the agreement on a 13th month payment to all regions in Germany	
From 1 January 2020	103 TAHP*	18 TAHP *
From 1 January 2021	113 TAHP *	36 TAHP *
From 1 January 2022	123 TAHP *	54 TAHP *
Trainees’ pay (1st to 3 rd year of training)		
From 1 May 2018	+ €65	+ €60
From 1 Mai 2018	€60 per month for travel and accommodation to attend training events at regional or national level.	
Travel-to-work	Establishment of a working party to produce a provision within 15 months.	
Duration	26 months to 30 April 2020	

* TAHP = ‘Total Agreed Hourly Pay’. The bonus is the number of hours times TAHP.

Source: WSI-Tarifarchiv

IG BAU’s collective bargaining committee accepted the conciliation award with a large majority on 26 May 2018 (IG BAU 2018c). This became the valid settlement once the employers had accepted the award and meant that the construction industry had agreed the highest pay increase to take effect during 2018. This outcome was due to the fact that, in contrast to most other branches, the agreed rise for a 26-month period was not spread over two stages but concentrated at the start of the agreement.

7. Prospects

Overall, the 2018 bargaining round was an expression of a new more assertive stance on the part of the trade unions in Germany. This was evidenced both in the level of pay increases, which also play a wider economic role in supporting domestic demand and promoting growth and employment, and the broadening of the bargaining agenda to embrace new aspects of working time and individual employee choice, with trade unions attempting to respond to the demands of both modern work and of modern life. In this respect, the trade unions have succeeded in initiating a renaissance in bargaining over working hours - an approach they intend to continue to pursue in future bargaining rounds.

The 2019 round, in which DGB trade unions will be negotiating new agreements for some 7.3 million employees, is likely to apply the results of the 2018 round to branches that did not negotiate in that year. Firstly, trade union claims for 2019 are running at 5.5-6.0 per cent, as in 2018. And secondly, many claims echo the demand for employee choice between more money or more time seen in the previous year, an approach that is likely to become the norm in an increasing number of branches.

What remains critical, and as yet unresolved, is the issue of how the collective bargaining system should be developed and collective bargaining coverage strengthened. The priority for the trade unions in this area will be to continue trying to press individual employers to join or remain within the scope of collective bargaining by exercising their organisational power. Above and beyond this, there is also a need for a political response in the form of concrete measures to consolidate and extend collective bargaining coverage and enable collective agreements to be more easily extended to employers currently outside the scope of collective agreements (Körzell and Nassibi 2017).

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